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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/436,603	11/09/1999	VINCENT P. LASKO	PPC-0720	6875

7590 01/13/2005

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EXAMINER

MATZEK, MATTHEW D

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

in

Office Action Summary	Application No. 09/436,603	Applicant(s) LASKO, VINCENT P.	
	Examiner Matthew D. Matzek	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/9/1999</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 8 and 9 are dependent upon canceled claim 6. For examination purposes the Examiner assumes that claims 8 and 9 are to be dependent upon claim 7.

2. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “nonwoven material” in claim 8 is used by the claim to encompass “plastic films”, while the accepted meaning is “fibrous materials that are nonwoven.” The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hirt et al. (US Patent 5,454,800).

4. Hirt et al. disclose an absorbent article for absorbing body fluids with apertures that form capillaries to facilitate movement of body fluids down into the absorbent layers (Abstract and col. 11, lines 9-10). The apertures of the various layers begin on the body-facing surface and may be aligned so as to rapidly allow the body fluid to penetrate down into the absorbent (col. 11, lines 10-11). The size, shape, diameter and number of apertures may be varied to suit one's particular needs (col. 11, lines 10-13). The applied patent does not specify that the apertures "extend from said first surface to said second surface" however it does state that the apertures may be tailored to suit one's particular needs, which encompasses this limitation. The absorbent article comprises a cover, baffle and an absorbent layer in between (col. 3, lines 10-13). Each of these layers is comprises nonwoven materials and preferably contains a polyethylene film (col. 3, lines 12-15 and 30-33, col. 4, lines 30-35, and col. 9, lines 47-49). The garment-facing adhesive used to attach the absorbent article to the surrounding garment may comprise one wide strip, two or three narrow strips or a spray pattern (col. 12, lines 5-8).

Claim Rejections - 35 USC § 103

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirt et al.

6. The applied patent discloses the use of hydrophilic polymers in the absorbent article (col. 4, lines 7-10 and 30-34). While the applied patent is silent as to the specific nature of garment-facing adhesive, it would have been obvious to one skilled in the art at the time of the invention

Art Unit: 1771

to have included a hydrophilic material motivated by the desire to protect the surrounding garment from being soiled.

Claim Rejections - 35 USC § 102/103

7. Claims 7-8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Couture-Dorschner et al. (US Patent 5,401,267).

8. Couture-Dorschner et al. disclose an absorbent article for absorbing body fluids with apertures that form capillaries to facilitate movement of body fluids down into the absorbent layers (Abstract and col. 3, lines 65-68). The apertures of the various layers begin on the body-facing surface and may be aligned so as to rapidly allow the body fluid to penetrate down into the absorbent (col. 5, lines 6-10). The size, shape, diameter and number of apertures may be varied to suit one's particular needs (col. 3, lines 65-68). The applied patent does not specify that the apertures "extend from said first surface to said second surface" however it does state that the apertures may be tailored to suit one's particular needs, which encompasses this limitation. The absorbent article comprises a cover, baffle and an absorbent layer in between (col. 3, lines 40-43). Each of these layers is comprises nonwoven materials and preferably contains a polyethylene film (col. 4, lines 5-10, col. 3, lines 38-55, col. 5, lines 50-55). The garment-facing adhesive used to attach the absorbent article to the surrounding garment may comprise one wide strip, two or three narrow strips or a spray pattern (col. 7, lines 24-30).

Claim Rejections - 35 USC § 103

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Couture-Dorschner et al.

Art Unit: 1771

10. The applied patent discloses the use of highly pigmented fabric for use as an in-use visual signal that the body fluid is in the center of the absorbent article (col. 4, lines 23-27). While the applied patent is silent as to the specific nature of garment-facing adhesive, it would have been obvious to one skilled in the art at the time of the invention to have included a highly pigmented material for use an in-use visual signal that the body fluid is in the center of the absorbent article.

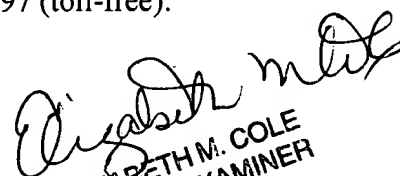
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm



ELIZABETH M. COLE
PRIMARY EXAMINER